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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/051,724 | 01/17/2002 | Isao Noda | 8840 | 8627 |

27752 7590 01/21/2004
THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

ACQUAH, SAMUEL A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1711

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,724

Applicant(s)

NODA ET AL

Examiner

SAMUEL A. ACQUAH

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Applicant's arguments filed 10/09/2003 have been fully considered but they are not persuasive. See the explanations below.

3. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 96/08535.

The disclosures of the cited prior art are as indicated in the previous Office Action. It is Applicants' position that the cited prior art "does not teach or suggest the use of the specific PHA copolymers recited in claim 1... Importantly, Applicants have discovered that the newer type of PHAs claimed in the present invention have superior properties compared to the conventional PHAs disclosed in the WO 96/08535 reference. In particular, the PHAs claimed herein can be melt processed at much lower temperatures than that of conventional PHAs and thus are less susceptible to thermal degradation during processing".

In essence, it is the Applicants' position that the PHA claimed are different from those disclosed by the prior art. Applicants argue that the claimed PHAs are different because they have lower melt processing temperatures. However, the claims do not recited melt processing temperatures, and the PHA copolymers claimed herein include PHBV, which are also disclosed by the cited prior art as typical of the PHA copolymers contemplated. Thus, it is the Examiner's position that Applicants' arguments do not distinguish over the PHAs disclosed by the cited prior art.

Art Unit: 1711

4. Claims 1, 3-6, and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 10147653.

The disclosures of this prior art is as indicated in the previous action. Applicants' arguments are as indicated above. Again, it is the Examiner's position that Applicants have not distinguished over the PHAs disclosed by the prior art.

5. Claims 1-5 rejected under 35 U.S.C. 103(a) as being unpatentable over EPA 0,753,539.

Applicants' arguments have been noted, said arguments are the same as indicated above. For the explanations indicated above, Applicants' arguments do not distinguish over the cited prior art.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

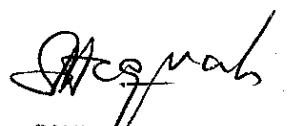
Art Unit: 1711

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL A. ACQUAH whose telephone number is 703-308-2436. The examiner can normally be reached on M-TH, FRIDAYS OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES SEIDLECK can be reached on 703-308-2462. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0661.

S.A.A.
12/30/03


SAMUEL A. ACQUAH
PRIMARY EXAMINER
GROUP 20 1700